

104TH CONGRESS
1ST SESSION

H. R. 1252

To amend the Federal Water Pollution Control Act to improve stormwater management, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 15, 1995

Mrs. LINCOLN introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend the Federal Water Pollution Control Act to improve stormwater management, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Stormwater Manage-
5 ment Improvement Act of 1995”.

6 **SEC. 2. STORMWATER MANAGEMENT.**

7 Section 402(p) of the Federal Water Pollution Con-
8 trol Act (33 U.S.C. 1342(p)) is amended to read as fol-
9 lows:

1 “(p) MUNICIPAL AND INDUSTRIAL STORMWATER
2 DISCHARGES.—

3 “(1) IN GENERAL.—The requirements of para-
4 graph (4) for applications and the issuance of per-
5 mits shall apply to the following stormwater dis-
6 charges:

7 “(A) A discharge with respect to which a
8 permit has been issued under this section before
9 February 4, 1987.

10 “(B) A discharge associated with industrial
11 or commercial activity.

12 “(C) A discharge from a municipal storm
13 sewer system serving a population of 250,000
14 individuals or more.

15 “(D) A discharge from a municipal storm
16 sewer system serving a population of 100,000
17 individuals or more but fewer than 250,000 in-
18 dividuals.

19 “(E) A discharge from a municipal storm
20 sewer system serving a population of 50,000 in-
21 dividuals or more but fewer than 100,000 indi-
22 viduals that is located in an urbanized area (as
23 designated by the Bureau of the Census) in
24 which a stormwater discharge covered by a per-

1 mit issued under subparagraph (C) or (D) is
2 also located.

3 “(F) A discharge for which the Adminis-
4 trator or the State, as the case may be, deter-
5 mines that the stormwater discharge contrib-
6 utes to a violation of a water quality standard
7 or is a significant contributor of pollutants to
8 waters of the United States.

9 “(2) OTHER MUNICIPAL STORMWATER DIS-
10 CHARGES.—

11 “(A) MORATORIUM ON PERMITTING FOR
12 REMAINING URBANIZED AREAS.—

13 “(i) MUNICIPAL STORMWATER SYS-
14 TEMS.—Except as provided in clauses (iii)
15 and (iv), prior to October 1, 2001, neither
16 the Administrator nor the State (in the
17 case of a permit program approved under
18 subsection (b)) shall require a permit
19 under this section for discharges composed
20 entirely of stormwater from municipal
21 storm sewer systems serving a population
22 of 50,000 individuals or more but fewer
23 than 100,000 individuals that is located in
24 an urbanized area (as designated by the

1 Bureau of the Census) other than dis-
2 charges described in paragraph (1)(E).

3 “(ii) ADVANCE NOTICE OF PROPOSED
4 RULEMAKING.—Not later than 2 years
5 after the date of enactment of this sub-
6 paragraph, the Administrator shall publish
7 an advance notice of proposed rulemaking
8 that summarizes available information on
9 municipal storm sewer systems covered by
10 clause (i) and outlines the options being
11 considered for regulations under clause
12 (iii).

13 “(iii) REGULATIONS.—The Adminis-
14 trator may issue regulations specifying per-
15 mit application requirements for permits
16 for the discharges covered by clause (i)
17 prior to October 1, 1998, based on a deter-
18 mination by the Administrator that the
19 discharges would be appropriately regu-
20 lated by a permit issued pursuant to this
21 subsection. If the Administrator issues the
22 regulations, permits shall be issued or de-
23 nied for the discharges not later than 7
24 years after the date of enactment of this
25 clause.

1 “(iv) FAILURE TO ISSUE REGULA-
2 TIONS.—Notwithstanding clause (i), if the
3 Administrator fails to issue the regulations
4 described in clause (iii) prior to October 1,
5 1998, the discharges covered by clause (i)
6 shall be subject to the requirements of sec-
7 tion 301 and this section as of October 1,
8 1998.

9 “(B) EXEMPTION FROM PERMIT REQUIRE-
10 MENTS FOR NONURBANIZED AREAS.—Notwith-
11 standing section 301 or any other provision of
12 this section, a source of discharges composed
13 entirely of stormwater from municipal storm
14 sewer systems, other than the discharges de-
15 scribed in paragraph (1) or subparagraph (A),
16 is not required to obtain a permit for the dis-
17 charges under this Act.

18 “(C) CLARIFICATION.—Nothing in this
19 subsection shall be interpreted, construed, or
20 applied to modify the requirements of this Act
21 (including other provisions of this section) oth-
22 erwise applicable to discharges of stormwater
23 combined with domestic or industrial
24 wastewater.

25 “(3) PERMIT REQUIREMENTS.—

1 “(A) INDUSTRIAL AND COMMERCIAL DIS-
2 CHARGES.—Permits for discharges associated
3 with industrial and commercial activity shall
4 meet all applicable provisions of this section
5 and section 301.

6 “(B) MUNICIPAL DISCHARGE.—Permits
7 for discharges from municipal storm sewers—

8 “(i) may be issued on a system- or ju-
9 risdiction-wide basis;

10 “(ii) shall include a requirement to ef-
11 fectively prohibit non-stormwater dis-
12 charges into the storm sewers;

13 “(iii) shall require controls to reduce
14 the discharge of pollutants to the maxi-
15 mum extent practicable, including manage-
16 ment practices, control techniques and sys-
17 tem, design and engineering methods, and
18 such other provisions as the Administrator
19 or the State determines appropriate for the
20 control of such pollutants; and

21 “(iv) shall include monitoring and re-
22 porting requirements that, at minimum,
23 provide for—

1 “(I) representative monitoring
2 for the quality of receiving waters;
3 and

4 “(II) reporting for the implemen-
5 tation of management measures.

6 “(C) MAXIMUM EXTENT PRACTICABLE.—

7 “(i) MAXIMUM EXTENT PRACTICABLE
8 DEFINED.—As used in subparagraph
9 (B)(iii) (and with respect to permits issued
10 after the date that is 2 years after the date
11 of enactment of this subparagraph), the
12 term ‘maximum extent practicable’ means
13 applying management measures, as defined
14 in section 6217(g)(5) of the Coastal Zone
15 Act Reauthorization Amendments of 1990
16 (16 U.S.C. 1455b(g)(5)), for municipal
17 stormwater discharges that, in the judg-
18 ment of the Administrator (or a State au-
19 thorized to issue a permit under this sec-
20 tion), will attain and maintain water qual-
21 ity standards.

22 “(ii) GUIDANCE.—Not later than 2
23 years after the date of enactment of this
24 subparagraph, the Administrator, after
25 consultation with persons with expertise in

1 the management of stormwater (including
2 officials of local governments and rep-
3 resentatives of public interest groups),
4 shall—

5 “(I) establish requirements for
6 specific management measures for
7 municipal stormwater discharges
8 based on the guidance issued under
9 section 6217 of the Coastal Zone Act
10 Reauthorization Amendments of 1990
11 (16 U.S.C. 1445b) to define ‘maxi-
12 mum extent practicable’ for the pur-
13 poses of this section; and

14 “(II) if practicable, include in the
15 requirements minimum and objective
16 performance standards for each of the
17 management measures.

18 “(D) NUMERIC EFFLUENT LIMITATIONS.—

19 Notwithstanding section 301 and this section,
20 during the 10-year period beginning on the date
21 of enactment of this subparagraph, a permit is-
22 sued pursuant to this subsection for discharges
23 from municipal storm sewers composed entirely
24 of stormwater shall not require compliance with
25 numeric effluent limitations and water quality

1 standards shall not be applied or enforced as
2 effluent limitations.

3 “(E) MUNICIPALLY OWNED AND COMMERCIAL DISCHARGES.—The Administrator (or a
4 State with a program approved under sub-
5 section (b)) may issue a consolidated permit for
6 discharges from a storm sewer system owned by
7 a municipality and the stormwater discharges
8 from industrial or commercial sources owned by
9 the same municipality.
10

11 “(4) PERMIT APPLICATION REQUIREMENTS.—

12 “(A) INDUSTRIAL AND LARGE MUNICIPAL
13 DISCHARGES.—Not later than 2 years after
14 February 4, 1987, the Administrator shall es-
15 tablish regulations setting forth the permit ap-
16 plication requirements for stormwater dis-
17 charges described in paragraphs (1)(B) and
18 (1)(C). Applications for permits for such dis-
19 charges shall be filed no later than 3 years after
20 February 4, 1987. Not later than 4 years after
21 February 4, 1987, the Administrator or the
22 State, as the case may be, shall issue or deny
23 each such permit. Any such permit shall provide
24 for compliance as expeditiously as practicable,

1 but in no event later than 3 years after the date
2 of issuance of such permit.

3 “(B) OTHER MUNICIPAL DISCHARGES.—

4 “(i) IN GENERAL.—Not later than 4
5 years after February 4, 1987, the Adminis-
6 trator shall establish regulations setting
7 forth the permit application requirements
8 for stormwater discharges described in
9 paragraph (1)(D). Applications for permits
10 for such discharges shall be filed no later
11 than 5 years after February 4, 1987. Not
12 later than 6 years after February 4, 1987,
13 the Administrator or the State, as the case
14 may be, shall issue or deny each such per-
15 mit. Any such permit shall provide for
16 compliance as expeditiously as practicable,
17 but in no event later than 3 years after the
18 date of issuance of such permit.

19 “(ii) DEADLINE FOR SUBMISSION OF
20 APPLICATION.—Applications for permits
21 for discharges from municipal storm sys-
22 tems that were not required to apply for a
23 permit before the date of enactment of this
24 clause because the systems are combined
25 storm and sanitary systems shall be filed

1 not later than 4 years after the date of en-
2 actment of this clause.

3 “(iii) EFFECTIVE DATE.—The re-
4 quirement for a permit under section 301
5 and this section shall apply to discharges
6 from municipal storm sewer systems de-
7 scribed in paragraph (1)(E) beginning on
8 the date of the expiration of a permit for
9 a discharge described in subparagraph (C)
10 or (D) of paragraph (1) that is located in
11 the same urbanized area and that occurs
12 after the date that is 3 years after the date
13 of enactment of this clause.

14 “(C) COMMERCIAL AND LIGHT INDUSTRIAL
15 DISCHARGES.—

16 “(i) IN GENERAL.—Except as pro-
17 vided in clause (ii), the Administrator
18 shall, after notice and opportunity for pub-
19 lic comment, establish permit application
20 and other requirements for stormwater dis-
21 charges from commercial and light indus-
22 trial sources and ensure that permits
23 under this section for all sources are issued
24 as expeditiously as practicable, but no later

1 than 8 years after the date of enactment
2 of this subparagraph.

3 “(ii) EXCEPTIONS.—This subpara-
4 graph shall not apply to discharges from
5 sources that—

6 “(I) were required to submit ap-
7 plications for a permit by the rule
8 published by the Administrator at 55
9 Fed. Reg. 47990 (November 16,
10 1990);

11 “(II) are in a source or a class
12 for which an exemption to the permit
13 requirements of this section and sec-
14 tion 301 is granted before the date
15 that is 8 years after the date of enact-
16 ment of this subparagraph, pursuant
17 to paragraph (5); or

18 “(III) are owned or operated by
19 a municipality and are subject to a
20 consolidated permit as authorized by
21 paragraph (3)(E).

22 “(D) REGULATIONS.—The Administrator
23 shall publish a notice of proposed rulemaking
24 for the requirements described in subparagraph
25 (C) not later than 4 years after the date of en-

1 actment of this subparagraph and shall issue
2 final regulations relating to the requirements
3 not later than 6 years after the date of enact-
4 ment of this subparagraph.

5 “(5) COMMERCIAL AND LIGHT INDUSTRIAL DIS-
6 CHARGES.—

7 “(A) IN GENERAL.—The Administrator
8 may exempt a class or category of commercial
9 and light industrial discharges composed en-
10 tirely of stormwater (other than discharges sub-
11 ject to permit application requirements pub-
12 lished at 55 Fed. Reg. 47990 (November 16,
13 1990)) from the requirement to obtain a permit
14 pursuant to section 301 and this section if the
15 Administrator determines based on available in-
16 formation that, considering controls and man-
17 agement measures installed at sources in the
18 class or category, stormwater discharges from
19 sources in the class or category have minimal
20 effect on water or sediment quality.

21 “(B) REGULATIONS.—

22 “(i) IN GENERAL.—The Administrator
23 shall issue regulations for classes or cat-
24 egories of discharges exempt under sub-
25 paragraph (A).

1 “(ii) CONTENTS.—Such regulations
2 shall, at a minimum, establish priorities,
3 establish requirements for State
4 stormwater management programs, and es-
5 tablish expeditious deadlines for compli-
6 ance with the requirements established by
7 the regulations. The regulations may in-
8 clude performance standards, guidelines,
9 guidance, and management practices and
10 treatment requirements, as appropriate.
11 The Administrator may, in making a de-
12 termination under subparagraph (A), take
13 into account controls and management
14 measures established pursuant to this sub-
15 paragraph.

16 “(iii) REFERENCES.—For purposes of
17 sections 309 and 505, any reference to a
18 permit issued under section 402 shall be
19 interpreted to include a requirement im-
20 posed by a regulation issued pursuant to
21 this subparagraph.

22 “(6) DISCHARGES FROM SMALL INDUSTRIAL OR
23 COMMERCIAL BUSINESSES.—

24 “(A) IN GENERAL.—Except as provided by
25 subparagraph (B), a stormwater discharge from

1 a small industrial or commercial business shall
2 not be subject to the permitting requirements of
3 section 301 or this section.

4 “(B) EXCEPTION.—The Administrator or
5 a State (in the case of a permit program ap-
6 proved under subsection (b)) may require a per-
7 mit under section 301 and this section for a
8 stormwater discharge described in subpara-
9 graph (A) in any case in which the Adminis-
10 trator or the State, as appropriate, determines
11 that the discharge contributes to a violation of
12 a water quality standard or is a significant con-
13 tributor of pollutants to waters of the United
14 States.

15 “(C) SMALL INDUSTRIAL OR COMMERCIAL
16 BUSINESS DEFINED.—For the purposes of this
17 paragraph, the term ‘small industrial or com-
18 mercial business’ means an industrial or com-
19 mercial business that employs no more than
20 25 individuals and is a small business concern
21 as defined under section 3(a) of the Small Busi-
22 ness Act (15 U.S.C. 632(a)).

23 “(7) STORMWATER RESEARCH.—

24 “(A) IN GENERAL.—To determine the
25 most cost-effective and technologically feasible

1 means of improving the quality of the waters of
2 the Nation, the Administrator shall establish an
3 initiative through which the Administrator shall
4 fund State and local demonstration programs
5 and research to test innovative approaches to
6 address the impacts of hydrologic and hydraulic
7 changes, source controls, and water quality
8 management practices and controls for runoff
9 from municipal storm sewers. Persons conduct-
10 ing demonstration programs and research fund-
11 ed under the initiative shall also take into ac-
12 count the physical nature of episodic
13 stormwater flows, the varying pollutants in
14 stormwater, the actual risk the flows pose to
15 the designated beneficial uses, and the ability of
16 natural ecosystems to accept temporary
17 stormwater events.

18 “(B) AWARD OF FUNDS.—The Adminis-
19 trator shall award the demonstration and re-
20 search program funds taking into account re-
21 gional and population variations.

22 “(C) AUTHORIZATION OF APPROPRIA-
23 TIONS.—There are authorized to be appro-
24 priated to carry out this paragraph a total of
25 \$100,000,000 for fiscal years 1995 through

1 2004. Such sums shall remain available until
2 expended.

3 “(8) ADDITIONAL MONITORING SUPPORT.—Mu-
4 nicipalities subject to permits issued under this sub-
5 section shall be eligible for grants under section
6 319(h) to train and facilitate training of citizens in
7 citizen watershed monitoring activities to support
8 municipal stormwater management programs.”.

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